

**Internal Revenue Service**

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Department of the Treasury  
Washington, DC 20224

[Third Party Communication:  
Date of Communication: Month DD, YYYY]

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PA:02  
PLR-145676-14

Date:  
June 26, 2015

In Re:

Legend

Entity =

State X =

Asset =

Collection Remedy =

Date 1 =

Date 2 =

Date 3 =

Court 1 =

Court 2 =

Dear :

This letter responds to the letter dated December 9, 2014, submitted on behalf of Entity requesting a ruling that Entity is not required to file Forms 1099-C to report the write-off of certain balances under a settlement agreement and court order approving the settlement agreement because the discharge was not the result of an “identifiable event” listed in Treasury Regulation § 1.6050P-1(b)(2), but rather was required by operation of state law. For the reasons set forth below, we conclude that Entity is not

required to report the discharge of indebtedness because of the occurrence of an identifiable event listed in Treasury Regulation section 1.6050P-1(b)(2).

### **Facts**

Entity is a financial institution chartered in State X engaged in, among other things, the business of extending credit to consumers for the purchase of certain assets.

Plaintiff filed a class action lawsuit against Entity, alleging Entity's presale notices violated State X law, and seeking statutory damages and an injunction prohibiting Entity from collecting the outstanding deficiency balances from the class of debtors who received similar presale notices. Specifically, the lawsuit alleged that notices related to Collection Remedy did not meet statutory notice requirements.

On Date 1, Court 1 found that the presale notice sent to plaintiff did not meet statutory notice requirements. On Date 2, the parties signed an agreement purporting to settle the entire class action lawsuit. On Date 3, Court 2 granted preliminary approval of the settlement. Also on Date 3, Court 2 enjoined Entity from collecting the outstanding deficiency balances from the class members, based on Court 1's finding that the presale notice sent to plaintiff did not meet statutory notice requirements. In relevant part, the settlement agreement requires Entity to write off balances owed by the class members. The settlement agreement acknowledges that Entity is entering the settlement to eliminate the risk, burden and expense of further litigation. The settlement agreement further acknowledges the court's finding that the presale notices sent to class members did not meet statutory standards and as such, State X law bars Entity from collecting deficiency balances.

### **Law & Analysis**

Section 6050P of the Internal Revenue Code requires that an applicable entity report any discharges (in whole or in part) of indebtedness of any person in excess of \$600 on a Form 1099-C. The Form 1099-C is to include the name, address and taxpayer identification number of each person whose indebtedness is discharged, the date of the discharge and the amount of indebtedness discharged. Section 1.6050P-1(a)(1) of the Treasury Regulations provides that, for information reporting purposes, a discharge of indebtedness is deemed to have occurred upon the occurrence of an "identifiable event", whether or not an actual discharge of indebtedness has occurred on or before the date on which the identifiable event has occurred. Reg. Section 1.6050P-1(b)(2) provides a list of identifiable events. Of the identifiable events, two are potentially relevant to the requested ruling: agreement by the parties to discharge the debt for less than full consideration, or a decision by the creditor to discontinue collection activity and discharge the debt.

#### Discharge by agreement of the parties

Regulation section 1.6050P-1(b)(2)(F) provides that an identifiable event occurs when the applicable entity and debtor agree to discharge the indebtedness for less than full consideration. To establish consideration, there must be a performance or a return promise which has been bargained for by the parties. Restatement (Second) Contracts § 71(1) (1981). In this case, Entity and the debtor-class members agreed to the entry of a judgment, approved and supervised by the court, which incorporates the parties' agreement by which Entity will write off all remaining deficiency balances as part of the overall settlement of the pending litigation. The discharge in this case does not fall under the identifiable event described in subsection (F) of the regulations because the debt was discharged by operation of state law, and not pursuant to the agreement of the parties to settle the litigation.

The violation of state law found by the court in its preliminary order and admitted by Entity in the settlement agreement means that the deficiency balances never accrued in the first place and Entity is barred from recovering any deficiency balances. This bar is effective whether or not the creditor "agrees" to discharge the debt. Therefore, the write-off of the balances for the class is not triggered by an agreement between Entity and the debtors, but rather by application of state law.

#### Discharge by decision of the creditor

Treasury Regulation section 1.6050P-1(b)(2)(G) provides that a discharge of indebtedness occurs upon a decision by the creditor, or the application of a defined policy of the creditor, to discontinue collection activity and discharge debt. For the same reasons as set forth above, this identifiable event does not apply. The discharge occurred by operations of state law, and not by a decision or application of a defined policy by entity.

### **Conclusion**

Based solely on the information provided and representations made, we conclude that Entity is not required to file Forms 1099-C with respect to the write-off of deficiency balances pursuant to the settlement agreement and preliminary order because the discharge was not the result of an identifiable event listed in section 1.6050P-1(b)(2), but rather was by operation of state law.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Blaise Dusenberry  
Senior Technician Reviewer  
(Procedure & Administration)

Enclosures: (1) Copy of letter for section 6110 purposes  
(2) Notice of Intention to Disclose, Notice 437

cc: